

AN ACT

relating to the regulation of metal recycling entities; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (10), Section 1956.001, Occupations Code, is amended to read as follows:

(10) "Regulated metal" means:

(A) manhole covers;

(B) guardrails;

(C) metal cylinders designed to contain compressed air, oxygen, gases, or liquids;

(D) beer kegs made from metal other than aluminum;

(E) historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;

(F) unused rebar;

(G) street signs;

(H) drain gates;

(I) safes;

(J) communication, transmission, and service wire or cable;

(K) condensing or evaporator coils for central heating or air conditioning units;

(L) utility structures, including the fixtures

1 and hardware;

2 (M) aluminum or stainless steel containers  
3 designed to hold propane for fueling forklifts; ~~and~~

4 (N) metal railroad equipment, including tie  
5 plates, signal houses, control boxes, signs, signals, traffic  
6 devices, traffic control devices, traffic control signals, switch  
7 plates, e-clips, and rail tie functions;

8 (O) catalytic converters not attached to a  
9 vehicle;

10 (P) fire hydrants;

11 (Q) metal bleachers or other seating facilities  
12 used in recreational areas or sporting arenas;

13 (R) any metal item clearly and conspicuously  
14 marked with any form of the name, initials, or logo of a  
15 governmental entity, utility, cemetery, or railroad;

16 (S) insulated utility, communications, or  
17 electrical wire that has been burned in whole or in part to remove  
18 the insulation;

19 (T) backflow valves; and

20 (U) metal in the form of commonly recognized  
21 products of the industrial metals recycling process, including  
22 bales, briquettes, billets, sows, ingots, pucks, and chopped or  
23 shredded metals.

24 SECTION 2. The heading to Section 1956.003, Occupations  
25 Code, is amended to read as follows:

26 Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY.

27 SECTION 3. Section 1956.003, Occupations Code, is amended

by adding Subsections (a-1), (a-2), (f), (f-1), (f-2), and (g) to read as follows:

(a-1) A county, municipality, or other political subdivision may require the record of purchase described under Section 1956.033 to contain a clear and legible thumbprint of a seller of regulated material.

(a-2) A county, municipality, or other political subdivision that, as authorized under Subsection (a), requires a metal recycling entity to report to the county, municipality, or political subdivision information relating to a sale of regulated material shall:

(1) include in any contract entered into by the county, municipality, or political subdivision relating to the reporting of the information a provision that:

(A) requires any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information relating to a sale of regulated material to maintain the confidentiality of all information received, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(B) allows the county, municipality, or political subdivision to terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Paragraph (A); and

(2) investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain

1 the confidentiality of information relating to a sale of regulated  
2 material.

3 (f) A person commits an offense if the person owns or  
4 operates a metal recycling entity and does not hold a license or  
5 permit required by a county, municipality, or other political  
6 subdivision as authorized under Subsection (b). An offense under  
7 this subsection is a Class B misdemeanor unless it is shown on the  
8 trial of the offense that the person has been previously convicted  
9 under this subsection, in which event the offense is a Class A  
10 misdemeanor.

11 (f-1) It is an exception to the application of Subsection  
12 (f) that:

13 (1) the person held a license or permit issued by the  
14 appropriate county, municipality, or other political subdivision  
15 at one point during the 12-month period preceding the date of the  
16 alleged offense; and

17 (2) the person obtains or submits an application for  
18 the appropriate license or permit not later than the 15th day after  
19 the date the person receives notice from the appropriate county,  
20 municipality, or other political subdivision informing the person  
21 that the metal recycling entity is operating without the required  
22 license or permit.

23 (f-2) This subsection and Subsection (f-1) expire March 1,  
24 2013.

25 (g) Notwithstanding any other law, a county, municipality,  
26 or other political subdivision must provide a minimum 30-day notice  
27 followed by a public hearing prior to enacting a prohibition on the

1 sale or use of a recyclable product.

2 SECTION 4. Subchapter A, Chapter 1956, Occupations Code, is  
3 amended by adding Section 1956.004 to read as follows:

4 Sec. 1956.004. CIVIL PENALTY. (a) A person who owns or  
5 operates a metal recycling entity and does not hold a license or  
6 permit required by a county, municipality, or other political  
7 subdivision as authorized under Section 1956.003(b) is subject to a  
8 civil penalty of not more than \$1,000 for each violation. In  
9 determining the amount of the civil penalty, the court shall  
10 consider:

11 (1) any other violations by the person; and

12 (2) the amount necessary to deter future violations.

13 (b) A district attorney, county attorney, or municipal  
14 attorney may institute an action to collect the civil penalty  
15 provided by this section.

16 (c) Each day a violation occurs or continues to occur is a  
17 separate violation.

18 (d) The district attorney, county attorney, or municipal  
19 attorney may recover reasonable expenses incurred in obtaining a  
20 civil penalty under this section, including court costs, reasonable  
21 attorney's fees, investigative costs, witness fees, and deposition  
22 expenses.

23 (e) It is an exception to the application of this section  
24 that:

25 (1) the person held a license or permit issued by the  
26 appropriate county, municipality, or other political subdivision  
27 at one point during the 12-month period preceding the date of the

1 alleged violation; and

2           (2) the person obtains or submits an application for  
3 the appropriate license or permit not later than the 15th day after  
4 the date the person receives notice from the appropriate county,  
5 municipality, or other political subdivision informing the person  
6 that the metal recycling entity is operating without the required  
7 license or permit.

8           (f) This subsection and Subsection (e) expire March 1, 2013.

9           SECTION 5. Section 1956.015, Occupations Code, is amended  
10 by amending Subsection (d) and adding Subsections (e) and (f) to  
11 read as follows:

12           (d) Information provided under this section is not subject  
13 to disclosure under Chapter 552, Government Code. The department  
14 may use information provided under this section for law enforcement  
15 purposes. Except as provided by this subsection, the department  
16 shall maintain the confidentiality of all information provided  
17 under this section, including the name of the seller, the price paid  
18 for a purchase of regulated material, and the quantity of regulated  
19 material purchased ~~[that relates to the financial condition or~~  
20 ~~business affairs of a metal recycling entity or that is otherwise~~  
21 ~~commercially sensitive. The confidential information is not~~  
22 ~~subject to disclosure under Chapter 552, Government Code].~~

23           (e) The department may enter into contracts relating to the  
24 operation of the statewide electronic reporting system established  
25 by this section. A contract under this subsection must:

26           (1) require that any contractor, subcontractor, or  
27 third party that has access to, comes into possession of, or

1 otherwise obtains information provided under this section maintain  
2 the confidentiality of all information provided under this section,  
3 including the name of the seller, the price paid for a purchase of  
4 regulated material, and the quantity of regulated material  
5 purchased; and

6 (2) provide that the department may terminate the  
7 contract of any contractor, subcontractor, or third party that  
8 violates the confidentiality provision required by Subdivision  
9 (1).

10 (f) The department shall investigate a complaint alleging  
11 that a contractor, subcontractor, or third party has failed to  
12 maintain the confidentiality of information relating to a sale of  
13 regulated material.

14 SECTION 6. Subchapter A-1, Chapter 1956, Occupations Code,  
15 is amended by adding Sections 1956.016 and 1956.017 to read as  
16 follows:

17 Sec. 1956.016. REGISTRATION DATABASE. The department shall  
18 make available on its Internet website a publicly accessible list  
19 of all registered metal recycling entities. The list must contain  
20 the following for each registered metal recycling entity:

21 (1) the entity's name;  
22 (2) the entity's physical address; and  
23 (3) the name of and contact information for a  
24 representative of the entity.

25 Sec. 1956.017. ADVISORY COMMITTEE. (a) The department  
26 shall establish an advisory committee to advise the department on  
27 matters related to the department's regulation of metal recycling

1 entities under this chapter.

2 (b) The advisory committee consists of 12 members appointed  
3 by the director as follows:

4 (1) one representative of the department;

5 (2) two representatives of local law enforcement  
6 agencies located in different municipalities, each with a  
7 population of 500,000 or more;

8 (3) two representatives of local law enforcement  
9 agencies located in different municipalities, each with a  
10 population of 200,000 or more but less than 500,000;

11 (4) one representative of a local law enforcement  
12 agency located in a municipality with a population of less than  
13 200,000;

14 (5) four representatives of metal recycling entities;  
15 and

16 (6) two members who represent industries that are  
17 impacted by theft of regulated material.

18 (c) The director shall ensure that the members of the  
19 advisory committee reflect the diverse geographic regions of this  
20 state.

21 (d) The advisory committee shall elect a presiding officer  
22 from among its members to serve a two-year term. A member may serve  
23 more than one term as presiding officer.

24 (e) The advisory committee shall meet annually and at the  
25 call of the presiding officer or the director.

26 (f) An advisory committee member is not entitled to  
27 compensation or reimbursement of expenses.



(g) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

SECTION 7. The heading to Section 1956.032, Occupations Code, is amended to read as follows:

Sec. 1956.032. INFORMATION REGARDING ~~[PROVIDED BY]~~ SELLER.

SECTION 8. Section 1956.032, Occupations Code, is amended by amending Subsection (a) and adding Subsections (g) and (h) to read as follows:

(a) Except as provided by Subsection (f), a person attempting to sell regulated material to a metal recycling entity shall:

(1) display to the metal recycling entity the person's personal identification document;

(2) provide to the metal recycling entity the make, model, color, and license plate number of the motor vehicle used to transport the regulated material and the name of the state issuing the license plate; ~~[and]~~

(3) either:

(A) present written documentation evidencing that the person is the legal owner or is lawfully entitled to sell the regulated material; or

(B) sign a written statement provided by the metal recycling entity that the person is the legal owner of or is lawfully entitled to sell the regulated material offered for sale;

(4) if the regulated material includes condensing or evaporator coils for central heating or air conditioning units,

display to the metal recycling entity:

(A) the person's air conditioning and refrigeration contractor license issued under Subchapter F or G, Chapter 1302;

(B) the person's air conditioning and refrigeration technician registration issued under Subchapter K, Chapter 1302;

(C) a receipt, bill of sale, or other documentation showing that the seller purchased the coils the seller is attempting to sell; or

(D) a receipt, bill of sale, or other documentation showing that the seller has purchased a replacement central heating or air conditioning unit; and

(5) if the regulated material includes insulated communications wire that has been burned wholly or partly to remove the insulation, display to the metal recycling entity documentation acceptable under the rules adopted under Subsection (h) that states that the material was salvaged from a fire.

(g) Notwithstanding Section 1956.002, the metal recycling entity shall verify the registration of a person attempting to sell regulated material who represents that the person is a metal recycling entity as follows:

(1) by using the database described by Section 1956.016; or

(2) by obtaining from the person a copy of the person's certificate of registration issued under Section 1956.022 in addition to the information required under Subsection (a).

(h) The commission shall adopt rules establishing the type of documentation that a seller of insulated communications wire described by Subsection (a)(5) must provide to a metal recycling entity to establish that the wire was salvaged from a fire.

SECTION 9. Section 1956.033, Occupations Code, is amended to read as follows:

Sec. 1956.033. RECORD OF PURCHASE. (a) Each metal recycling entity in this state shall keep an accurate electronic record or an accurate and legible written record of each purchase of regulated material made in the course of the entity's business from an individual ~~[of]~~

~~[(1) copper or brass material,~~  
~~[(2) bronze material,~~  
~~[(3) aluminum material, or~~  
~~[(4) regulated metal].~~

(b) The record must be in English and include:

(1) the place and date of the purchase;

(2) the name and address of the seller in possession of ~~[each individual from whom]~~ the regulated material ~~[is]~~ purchased ~~[or obtained]~~;

(3) the identifying number of the seller's personal identification document;

(4) a description made in accordance with the custom of the trade of the commodity type and quantity of regulated material purchased; ~~[and]~~

(5) the information required by Sections 1956.032(a)(2) and (3);

(6) as applicable:

(A) the identifying number of the seller's air conditioning and refrigeration contractor license displayed under Section 1956.032(a)(4)(A);

(B) a copy of the seller's air conditioning and refrigeration technician registration displayed under Section 1956.032(a)(4)(B);

(C) a copy of the documentation described by Section 1956.032(a)(4)(C); or

(D) a copy of the documentation described by Section 1956.032(a)(4)(D);

(7) if applicable, a copy of the documentation described by Section 1956.032(a)(5); and

(8) a copy of the documentation described by Section 1956.032(g) [~~Section 1956.032(a)(3)~~].

SECTION 10. Subchapter A-3, Chapter 1956, Occupations Code, is amended by adding Section 1956.0331 to read as follows:

Sec. 1956.0331. PHOTOGRAPH OR RECORDING REQUIREMENT FOR REGULATED METAL TRANSACTION. (a) In addition to the requirements of Sections 1956.032 and 1956.033, for each purchase by a metal recycling entity of an item of regulated metal, the entity shall obtain a digital photograph or video recording that accurately depicts the seller's entire face and each type of regulated metal purchased.

(b) A metal recycling entity shall preserve a photograph or recording required under Subsection (a) as follows:

(1) for a video recording, until the 91st day after the

date of the transaction; and

(2) for a digital photograph, until the 181st day after the date of the transaction.

(c) The photograph or recording must be made available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

SECTION 11. Section 1956.034, Occupations Code, is amended to read as follows:

Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling entity shall preserve each record required by Sections 1956.032 and 1956.033 until the second ~~[third]~~ anniversary of the date the record was made. The records must be kept in an easily retrievable format and must be available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

SECTION 12. Section 1956.035, Occupations Code, is amended to read as follows:

Sec. 1956.035. INSPECTION OF RECORDS ~~[BY PEACE OFFICER]~~.

(a) On request, a metal recycling entity shall permit a peace officer of this state, a representative of the department, or a representative of a county, municipality, or other political subdivision that issues a license or permit under Section 1956.003(b) to inspect, during the entity's usual business hours:

(1) a record required by Section 1956.033; ~~[or]~~

(2) a digital photograph or video recording required by Section 1956.0331; or

(3) regulated material in the entity's possession.

(b) The person seeking to inspect a record or material

1 ~~[inspecting officer]~~ shall:

2           (1) inform the entity of the officer's status as a  
3 peace officer; or

4           (2) if the person is a representative of the  
5 department or a representative of a county, municipality, or other  
6 political subdivision, inform the entity of the person's status and  
7 display to the entity an identification document or other  
8 appropriate documentation establishing the person's status as a  
9 representative of the department or of the appropriate county,  
10 municipality, or political subdivision.

11           SECTION 13. Section 1956.036, Occupations Code, is amended  
12 by amending Subsections (a) and (b) and adding Subsections (d) and  
13 (e) to read as follows:

14           (a) Except as provided by Subsections ~~[Subsection]~~ (b) and  
15 (d), not later than the close of business on a metal recycling  
16 entity's second working ~~[seventh]~~ day after the date of the  
17 purchase or other acquisition of material for which a record is  
18 required under Section 1956.033, the ~~[a metal recycling]~~ entity  
19 shall send an electronic transaction report to the department via  
20 the department's Internet website. The ~~[by facsimile or electronic~~  
21 ~~mail to or file with the department a]~~ report must contain  
22 ~~[containing]~~ the information required to be recorded under Section  
23 1956.033 ~~[that section]~~.

24           (b) If a metal recycling entity purchases bronze material  
25 that is a cemetery vase, receptacle, memorial, or statuary or a pipe  
26 that can reasonably be identified as aluminum irrigation pipe, the  
27 entity shall:

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(1) not later than the close of business on the entity's first working day after the purchase date, notify the department by telephone, by e-mail, or via the department's Internet website; and

(2) not later than the close of business on the entity's second working [~~fifth~~] day after the purchase date, submit to the department electronically via the department's Internet website [~~mail to~~] or file with the department a report containing the information required to be recorded under Section 1956.033.

(d) A metal recycling entity may submit the transaction report required under Subsection (a) by facsimile if:

(1) the entity submits to the department annually:

(A) an application requesting an exception to the electronic reporting requirement; and

(B) an affidavit stating that the entity does not have an available and reliable means of submitting the transaction report electronically; and

(2) the department approves the entity's application under this subsection.

(e) The department, after notice and an opportunity for a hearing, may prohibit a metal recycling entity from paying cash for a purchase of regulated material for a period determined by the department if the department finds that the entity has failed to comply with this section.

SECTION 14. Subsection (a), Section 1956.037, Occupations Code, is amended to read as follows:

(a) A metal recycling entity may not dispose of, process,

sell, or remove from the premises an item of regulated metal unless:

(1) the entity acquired the item more than:

(A) eight days, excluding weekends and holidays, before the disposal, processing, sale, or removal, if the item is a cemetery vase, receptacle, or memorial made from a regulated material other than aluminum material; or

(B) 72 hours, excluding weekends and holidays, before the disposal, processing, sale, or removal, if the item is not an item described by Paragraph (A); or

(2) the entity purchased the item from a manufacturing, industrial, commercial, retail, or other seller that sells regulated material in the ordinary course of its business.

SECTION 15. Section 1956.038, Occupations Code, is amended to read as follows:

Sec. 1956.038. PROHIBITED ACTS. (a) A person may not, with the intent to deceive:

(1) display to a metal recycling entity a false or invalid personal identification document in connection with the person's attempted sale of regulated material;

(2) make a false, material statement or representation to a metal recycling entity in connection with:

(A) that person's execution of a written statement required by Section 1956.032(a)(3); or

(B) the entity's efforts to obtain the information required under Section 1956.033(b); ~~[ex]~~

(3) display or provide to a metal recycling entity any



1 information required under Section 1956.032 that the person knows  
2 is false or invalid; or

3 (4) display another individual's personal  
4 identification document in connection with the sale of regulated  
5 material.

6 (b) A metal recycling entity may not pay for a purchase of  
7 regulated material in cash if:

8 (1) the entity does not hold a certificate of  
9 registration under Subchapter A-2 and, if applicable, a license or  
10 permit required by a county, municipality, or other political  
11 subdivision as authorized under Section 1956.003(b); or

12 (2) the entity has been prohibited by the department  
13 from paying cash under Section 1956.036(e).

14 (c) Notwithstanding Section 1956.003(a) or any other law, a  
15 county, municipality, or other political subdivision may not adopt  
16 or enforce a rule, charter, or ordinance or issue an order or impose  
17 standards that limit the use of cash by a metal recycling entity in  
18 a manner more restrictive than that provided by Subsection (b).

19 (d) Subsection (c) does not apply to a rule, charter,  
20 ordinance, or order of a county, municipality, or other political  
21 subdivision in effect on January 1, 2011.

22 (d-1) Not later than January 1, 2012, the department shall  
23 issue a notice to each known owner or operator of a metal recycling  
24 entity in this state informing the owner or operator of the  
25 requirement to obtain a certificate of registration under  
26 Subchapter A-2 and, if applicable, to obtain a license or permit  
27 required by a county, municipality, or other political subdivision

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under Section 1956.003. The notice must also state:

(1) that the owner or operator shall submit an application for a certificate of registration and the appropriate license or permit required by a county, municipality, or other political subdivision on or before March 1, 2012; and

(2) the penalties under this chapter for failure to comply with Subdivision (1).

(d-2) This subsection and Subsection (d-1) expire March 1, 2012.

(e) The department or a county, municipality, or other political subdivision may bring an action in the county in which a metal recycling entity is located to enjoin the business operations of the owner or operator of the metal recycling entity for a period of not less than 30 days and not more than 90 days if the owner or operator has not submitted an application for a certificate of registration or the appropriate license or permit required by a county, municipality, or other political subdivision.

(f) An action under Subsection (e) must be brought in the name of the state. If judgment is in favor of the state, the court shall:

(1) enjoin the owner or operator from maintaining or participating in the business of a metal recycling entity for a definite period of not less than 30 days and not more than 90 days, as determined by the court; and

(2) order that the place of business of the owner or operator be closed for the same period.

SECTION 16. Section 1956.040, Occupations Code, is amended

1 by adding Subsections (a-1), (a-2), (a-3), (a-4), and (b-1) and  
2 amending Subsection (b) to read as follows:

3 (a-1) A person commits an offense if the person knowingly  
4 violates Section 1956.021, 1956.023(d), 1956.036(a), or 1956.039.

5 (a-2) An offense under Subsection (a-1) is a misdemeanor  
6 punishable by a fine not to exceed \$10,000, unless it is shown on  
7 trial of the offense that the person has previously been convicted  
8 of a violation of Subsection (a-1), in which event the offense is a  
9 state jail felony.

10 (a-3) It is an affirmative defense to prosecution of a  
11 violation of Section 1956.021 or 1956.023(d) that the person made a  
12 diligent effort to obtain or renew a certificate of registration at  
13 the time of the violation.

14 (a-4) A municipality or county may retain 10 percent of the  
15 money collected from a fine for a conviction of an offense under  
16 Subsection (a-1) as a service fee for that collection and the clerk  
17 of the court shall remit the remainder of the fine collected for  
18 conviction of an offense under Subsection (a-1) to the comptroller  
19 in the manner provided for the remission of fees to the comptroller  
20 under Subchapter B, Chapter 133, Local Government Code. The  
21 comptroller shall deposit proceeds received under this subsection  
22 to the credit of an account in the general revenue fund, and those  
23 proceeds may be appropriated only to the department and used to:

24 (1) finance the department's administration of  
25 Subchapters A, A-1, A-2, and A-3; and

26 (2) fund grants distributed under the prevention of  
27 scrap metal theft grant program established under Subchapter N,

1 Chapter 411, Government Code.

2 (b) A person commits an offense if the person knowingly  
3 buys:

4 (1) stolen regulated material; or

5 (2) insulated communications wire that has been burned  
6 wholly or partly to remove the insulation, unless the wire is  
7 accompanied by documentation acceptable under the rules adopted  
8 under Section 1956.032(h) that states that the material was  
9 salvaged from a fire.

10 (b-1) An offense under Subsection (b) [~~this subsection~~] is a  
11 Class A misdemeanor unless it is shown on trial of the offense that  
12 the person has previously been convicted under Subsection (b) [~~this~~  
13 ~~subsection~~], in which event the offense is a state jail felony.

14 SECTION 17. Subsection (a), Section 1956.103, Occupations  
15 Code, is amended to read as follows:

16 (a) A person may not sell or otherwise transfer to a metal  
17 recycling entity:

18 (1) a lead-acid battery, fuel tank, or PCB-containing  
19 capacitor that is included with another type of scrap, used, or  
20 obsolete metal without first obtaining from the metal recycling  
21 entity a written and signed acknowledgment that the scrap, used, or  
22 obsolete metal includes one or more lead-acid batteries, fuel  
23 tanks, or PCB-containing capacitors;

24 (2) any of the following items that contain or enclose  
25 a lead-acid battery, fuel tank, or PCB-containing capacitor or of  
26 which a lead-acid battery, fuel tank, or PCB-containing capacitor  
27 is a part:

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(A) a motor vehicle;

(B) a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle;

(C) an appliance; or

(D) any other item of scrap, used, or obsolete metal; ~~[or]~~

(3) a motor vehicle or a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle if the motor vehicle includes, contains, or encloses a tire or scrap tire; or

(4) a metal alcoholic beverage keg, regardless of condition, unless the seller is the manufacturer of the keg, the brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller.

SECTION 18. Section 1956.151, Occupations Code, is amended to read as follows:

Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. The department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a person who is registered under this chapter if the person:

(1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) sells, barter, or offers to sell or barter a certificate of registration;

1 (3) violates a provision of this chapter or a rule  
2 adopted under this chapter; or

3 (4) violates Section 1956.021.

4 SECTION 19. Subsection (d), Section 1956.202, Occupations  
5 Code, is amended to read as follows:

6 (d) A civil penalty may not be assessed under this section  
7 for conduct described by Section 1956.021, 1956.023(d),  
8 1956.036(a), 1956.038, or 1956.039.

9 SECTION 20. Chapter 411, Government Code, is amended by  
10 adding Subchapter N to read as follows:

11 SUBCHAPTER N. PREVENTION OF SCRAP METAL THEFT GRANT PROGRAM

12 Sec. 411.421. DEFINITION. In this subchapter, "regulated  
13 material" has the meaning assigned by Section 1956.001, Occupations  
14 Code.

15 Sec. 411.422. GRANTS TO FUND SCRAP METAL THEFT PREVENTION.

16 (a) From fines collected and distributed to the department under  
17 Sections 1956.040(a-2) and (a-4), Occupations Code, the commission  
18 by rule shall establish and implement a grant program to provide  
19 funding to assist local law enforcement agencies in preventing the  
20 theft of regulated material.

21 (b) To be eligible for a grant, a recipient must be a local  
22 law enforcement agency that has established a program designed to  
23 prevent the theft of regulated material.

24 (c) Rules adopted under this section must:

25 (1) include accountability measures for grant  
26 recipients and provisions for loss of eligibility for grant  
27 recipients that fail to comply with the measures; and

1           (2) require grant recipients to provide to the  
2 department information on program outcomes.

3           SECTION 21. Subsection (e), Section 31.03, Penal Code, is  
4 amended to read as follows:

5           (e) Except as provided by Subsection (f), an offense under  
6 this section is:

7                 (1) a Class C misdemeanor if the value of the property  
8 stolen is less than:

9                         (A) \$50; or

10                        (B) \$20 and the defendant obtained the property  
11 by issuing or passing a check or similar sight order in a manner  
12 described by Section 31.06;

13                 (2) a Class B misdemeanor if:

14                         (A) the value of the property stolen is:

15                                 (i) \$50 or more but less than \$500; or

16                                 (ii) \$20 or more but less than \$500 and the  
17 defendant obtained the property by issuing or passing a check or  
18 similar sight order in a manner described by Section 31.06;

19                         (B) the value of the property stolen is less  
20 than:

21                                 (i) \$50 and the defendant has previously  
22 been convicted of any grade of theft; or

23                                 (ii) \$20, the defendant has previously been  
24 convicted of any grade of theft, and the defendant obtained the  
25 property by issuing or passing a check or similar sight order in a  
26 manner described by Section 31.06; or

27                         (C) the property stolen is a driver's license,

1 commercial driver's license, or personal identification  
2 certificate issued by this state or another state;

3 (3) a Class A misdemeanor if the value of the property  
4 stolen is \$500 or more but less than \$1,500;

5 (4) a state jail felony if:

6 (A) the value of the property stolen is \$1,500 or  
7 more but less than \$20,000, or the property is less than 10 head of  
8 sheep, swine, or goats or any part thereof under the value of  
9 \$20,000;

10 (B) regardless of value, the property is stolen  
11 from the person of another or from a human corpse or grave,  
12 including property that is a military grave marker;

13 (C) the property stolen is a firearm, as defined  
14 by Section 46.01;

15 (D) the value of the property stolen is less than  
16 \$1,500 and the defendant has been previously convicted two or more  
17 times of any grade of theft;

18 (E) the property stolen is an official ballot or  
19 official carrier envelope for an election; or

20 (F) the value of the property stolen is less than  
21 \$20,000 and the property stolen is [~~insulated or noninsulated~~  
22 ~~tubing, rods, water gate stems, wire, or cable that consists of at~~  
23 ~~least 50 percent~~]:

24 (i) aluminum;

25 (ii) bronze; [~~ex~~]

26 (iii) copper; or

27 (iv) brass;



(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION 22. (a) Except as provided by Subsection (b) of this section, the change in law made by this Act applies only to an offense committed on or after September 1, 2011. An offense committed before September 1, 2011, is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(b) Subdivision (2), Subsection (b), Section 1956.040, Occupations Code, as added by this Act, applies only to an offense committed on or after January 1, 2012. An offense committed before January 1, 2012, is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(c) For purposes of this section, an offense was committed

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1 before the applicable date if any element of the offense occurred  
2 before that date.

3 (d) The enhancement of the punishment of an offense provided  
4 under Subsection (a-2), Section 1956.040, Occupations Code, as  
5 added by this Act, applies only to an offense committed on or after  
6 January 1, 2012. For purposes of this subsection, an offense is  
7 committed before January 1, 2012, if any element of the offense  
8 occurs before that date. An offense committed before January 1,  
9 2012, is covered by the law in effect when the offense was  
10 committed, and the former law is continued in effect for that  
11 purpose.

12 (e) Not later than January 1, 2012, the public safety  
13 director of the Department of Public Safety of the State of Texas  
14 shall appoint the members of the advisory committee established  
15 under Section 1956.017, Occupations Code, as added by this Act, and  
16 designate the time and place of the committee's first meeting.

17 (f) Not later than December 1, 2011, the Public Safety  
18 Commission shall adopt rules to implement Subsection (h), Section  
19 1956.032, Occupations Code, as added by this Act.

20 SECTION 23. (a) Except as provided by Subsections (b) and  
21 (c) of this section, this Act takes effect September 1, 2011.

22 (b) Subsection (f), Section 1956.003, Section 1956.004, and  
23 Subsections (b) and (e), Section 1956.038, Occupations Code, as  
24 added by this Act, take effect March 1, 2012.

25 (c) Subdivision (5), Subsection (a), Section 1956.032, and  
26 Subdivision (2), Subsection (b), Section 1956.040, Occupations  
27 Code, as added by this Act, take effect January 1, 2012.

ok  
due

S.B. No. 694

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 694 passed the Senate on April 12, 2011, by the following vote: Yeas 31, Nays 0; May 26, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2011, House granted request of the Senate; May 29, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Latsyn Saw

Secretary of the Senate

I hereby certify that S.B. No. 694 passed the House, with amendments, on May 24, 2011, by the following vote: Yeas 106, Nays 29, three present not voting; May 27, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 119, Nays 21, two present not voting.

Robert Hanesy

Chief Clerk of the House

Approved:

17 JUN '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
4 pm O'CLOCK

JUN 17 2011

Robert Hanesy

Secretary of State